

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**BROOKLYN BOTTLING OF MILTON,  
NEW YORK, INC.**

**Plaintiff,**

**-v.-**

**ECUABEVERAGE CORPORATION,**

**Defendant,**

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**Civil Action No.**

**07-CV-08483-AKH**

**ORAL HEARING  
REQUESTED**

**DEFENDANT ECUABEVERAGE CORPORATION'S  
NOTICE OF MOTION AND MOTION FOR PARTIAL SUMMARY JUDGMENT  
ON COUNTS I, II AND VI OF THE AMENDED COMPLAINT,  
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 56**

PLEASE TAKE NOTICE that Defendant Ecuabeverage Corporation ("Ecuabeverage"), pursuant to Fed.R.Civ.P. 56, will move, and hereby does move, for an *Order* granting Ecuabeverage partial summary judgment with respect to Counts I, II and VI of the *Amended Complaint* of Plaintiff, Brooklyn Bottling of Milton, New York, Inc., there being no genuine dispute as to any material, or triable, issue of fact with respect to Counts I, II and VI and that Ecuabeverage is entitled to judgment on Counts I, II and VI of the *Amended Complaint*, as a matter of law.

The motion is based on this *Notice of Motion and Motion for Partial Summary Judgment, Defendant Ecuabeverage Corporation's Statement of Material Facts, Pursuant to Local Rule 56.1*, and the exhibits and *Declaration* attached thereto, *Defendant Ecuabeverage Corporation's Memorandum in Support of its Motion for Partial Summary*

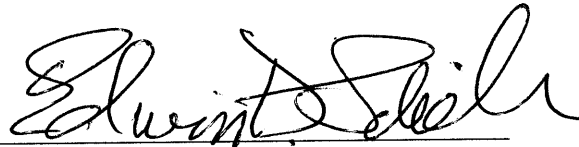
*Judgment on Counts I, II and VI of the Amended Complaint*, the pleadings and papers on file herein, and upon such other matters as may be presented to the Court at the time of hearing.

Respectfully submitted,

ECUABEVERAGE CORPORATION

Dated: March 14, 2008

By



Edwin D. Schindler (ES-7882)

*Attorney for Defendant*

Five Hirsch Avenue

P. O. Box 966

Coram, New York 11727-0966

*Telephone:* (631)474-5373

*Fax:* (631)474-5374

*E-Mail:* EDSchindler@worldnet.att.net

EDSchindler@optonline.net

**CERTIFICATE OF SERVICE**

I, EDWIN D. SCHINDLER, hereby certify that I served a true, and complete, copy of *Defendant Ecuabeverage Corporation's Notice of Motion and Motion for Partial Summary Judgment on Counts I, II and VI of the Amended Complaint, Pursuant to Federal Rule of Civil Procedure 56*, upon the following counsel for Plaintiff Brooklyn Bottling of Milton, New York, Inc., via First-Class Mail, postage pre-paid:

Jeffrey E. Jacobson  
Bruce E. Colfin  
JACOBSON & COLFIN, P.C.  
60 Madison Avenue, Suite 1026  
New York, New York 10010

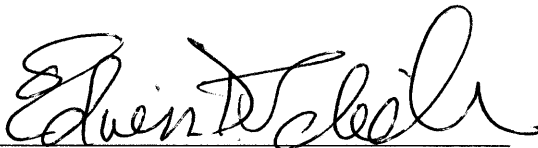
and

via E-Mail at:

jeffrey@thefirm.com

bruce@thefirm.com

on March 14, 2008.

  
Edwin D. Schindler (ES-7882)  
*Attorney for Defendant*